

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WELLS FARGO BANK, N.A.,

Plaintiff,

v.

MPC INVESTORS, LLC, DOMINIC MOCERI,
GERALD CARNAGO, FRANCIS V. MOCERI,
MARIANO MOCERI, PETER K. BURTON,
ROBERT M. KATZMAN, LAURENCE R.
GOSS, STEVEN BENTLEY, SALVATORE J.
PALAZZOLO, SEBASTIAN D. PALAZZOLO,
GREGORY A. CARNAGO, and DOMINIC J.
MOCERI,

Defendants,

v.

CHARLES SCHWAB & CO., INC., and BANK
OF AMERICA, NA,

Garnishees,

and

GREGORY A CARNAGO and GERALD
CARNAGO,

Cross-Plaintiffs,

v.

LAURENCE R GOSS, STEVEN BENTLEY,
SALVATORE J PALAZZOLO, SEBASTIAN
D PALAZZOLO, PETER K BURTON, and
ROBERT M KATZMAN,

Cross-Defendants.

Case No: 09-11249

Honorable David M. Lawson

Magistrate Judge Mona K. Majzoub

**ORDER ADOPTING REPORT
AND RECOMMENDATION,
AND GRANTING IN PART AND
DENYING IN PART
PLAINTIFF'S EMERGENCY
MOTION FOR CONTEMPT, TO
COMPEL, AND FOR
SANCTIONS**

ORDER ADOPTING REPORT AND RECOMMENDATION, AND GRANTING IN PART AND DENYING IN PART PLAINTIFF'S EMERGENCY MOTION FOR CONTEMPT, TO COMPEL, AND FOR SANCTIONS

Presently before the Court is the report issued on August 9, 2010 by Magistrate Judge Mona K. Majzoub pursuant to 28 U.S.C. § 636(b). Judge Majzoub recommended granting in part and denying in part the plaintiff's emergency motion for contempt, to compel, and for sanctions. Judge Majzoub explains that much of the relief sought in this motion was addressed in her previous report and recommendation issued on August 2, 2010 and that these current requests should be denied because they were already addressed. Furthermore, Judge Majzoub concluded that the defendants' motions to quash were timely and warranted relief; therefore, she recommended that the plaintiff's request for an award of costs and attorneys fees be denied. With respect to the request for civil contempt sanctions, Judge Majzoub recommended that defendant Gerald Carnago be found in contempt of court pursuant to Federal Rule of Civil Procedure 37(b) for failure to appear at the safety deposit box inventory following the Court's June 9, 2010 order. She recommended that Gerald Carnago be sanctioned \$3,600 to compensate the plaintiffs \$1,800 for the costs associated with this failed inventory session and to deter future disregard of the Court's authority, payable to the plaintiff by September 6, 2010.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases

the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 320] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's emergency motion for contempt, to compel, and for sanctions [dkt # 304] is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that the plaintiff's requests for an order requiring the Carnagos to produce documents, requiring Gerald Carnago to sit for a creditor's examination, and awarding costs and fees associated with responding to the defendants' motions to quash are **DENIED**.

It is further **ORDERED** that the plaintiff's request for civil contempt sanctions against defendant Gerald Carnago is **GRANTED**.

It is further **ORDERED** that defendant Gerald Carnago shall pay to the plaintiff the sum of \$3,600 **on or before September 6, 2010**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 31, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 31, 2010.

s/Teresa Scott-Feijoo
TERESA SCOTT-FEIJOO